IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Review Application No. 4113 of 2004
IN
A.O. No. 324 of 2001
(Old No. 1064/1999)

National Insurance Company Ltd.
25 M.G. Marg, Civil Lines Allahabad
through its Administrative Oficer ……. Appellant.

Versus

(1) Smt. Devki Devi wife of late Sri Urbadutt,
(2) Master Gajadhar S/o late Sri Urbadutt
Both residents of Village-Jaipur Khima,
P.S. Lalkuan, District Nainital.

…….Claimants/respondents

(3) Javed Ansari S/o Habibur Rahman,
R/o Line No. 8 Azad Nagar, Haldwani,
(Owner Truck No. URN 979).

…… Respondent.

Date: 4th Dec., 2004

Hon'ble P.C. Verma, J.
Hon'ble Rajesh Tandon, J.

Heard Sri Anil Dabral Advocate holding brief of Sri D.S. Patni, learned counsel for the appellant/applicant.

Present review application has been filed against the order dated 11.02.2004.

The claims tribunal has passed the award to the following effect:-

"This appeal is allowed partly. Claimants are entitled for getting Rs. 1,60,000/- as compensation. The claimants will also be entitled to get interest at the rate of 9% (nine percent) per annum from the date of filing of the claim petition till the date of payment. The amount of compensation alongwith interest shall be paid by the Insurance Company to the claimant……."

The appeal was preferred by the Insurance Company, which was dismissed on 11.02.2004.

We have perused the endorsement dated 11.2.2004 signed by the conciliators which reads as under:-

"The present appeal has been put up for compromise in the Lok Adalat.

Sri Prabhat Pandey Advocate for National Insurance Company, Sri B.C.Pandey Divisional Manager National Insurance Company and Sri Zafar Siddiqui Advocate for the respondents are present. The National Insurance Company has snot pressed the appeal. The counsel has made the endorsement on the ordersheet of the appeal. Hence the appeal may be dismissed as withdrawn. Put up before the Hon'ble Bench."

This Court passed the following order on 11.2.2004:

"Learned counsel for the Insurance Company does not wish to press this appeal. Mr.P.Pandey, learned counsel for the Insurance Company has made endorsement on the ordersheet. The statement of the learned Advocate for the insurance company is verified by Sri P.K.Agarwal, District Judge, Pauri and Mrs. Meena Tiwari, Addl. Registrar.

The appeal is dismissed accordingly as withdrawn."

This is an application for reviewing the order dated 11.2.2004:- passed by this Court in Lok Adalat dismissing the appeal as withdrawn.

The learned counsel for the applicant sought the review of the order on the ground that the deponent was made to understand that in case the appeal is withdrawn, the interest in the award dated 29.6.1999 shall be waived.

We have perused the endorsement made by the learned counsel for the appellant on the ordersheet. The learned counsel for the appellant himself has endorsed on the ordersheet that "Appeal not pressed". Now it is not open

for the appellant to pray for the waiver of the interest on the amount awarded by the claims tribunal.

A perusal of the award passed by the Claims Tribunal shows that the death occurred in the year 1989 and a sum of Rs. 1,60,000/- has been awarded.

In view of the above, we do not find any ground to review the order dated 11.2.2004.

The review application is dismissed.

(Ramesh Tandon, J.) **(P.C. Verma, J.)**

04.12.2004
PSR